UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/827,451	04/06/2001	Robert F. Terry	52723.00002	6181

7590 01/27/2005	EXAMINER
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ART UNIT	PAPER NUMBER
2137	

DATE MAILED: 01/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

		Application No.	Applicant(s)
		09/827,451	TERRY, ROBERT F.
Office Action Summary		Examiner	Art Unit
		Michael Pyzocha	2137

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>01 December 2004</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-15</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-15</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>11 January 2002</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>see attachment</u>.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

02042002, 03042002, 07092002, 10212002, 01202002

DETAILED ACTION

1.   Claims 1-15 are pending.

Election/Restrictions

2.   Applicant's election without traverse of Group I (claims 1-

15) in the reply filed on 01 Dec 2004 (12/01/2004) is

acknowledged.

Claim Objections

3.   Claim 15 is repeated and the second claim 15 will be

disregarded.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which

forms the basis for all obviousness rejections set forth in this

Office action:

> (a) A patent may not be obtained though the invention is not identically
> disclosed or described as set forth in section 102 of this title, if the
> differences between the subject matter sought to be patented and the prior
> art are such that the subject matter as a whole would have been obvious at
> the time the invention was made to a person having ordinary skill in the
> art to which said subject matter pertains. Patentability shall not be
> negatived by the manner in which the invention was made.

5.   Claims 1-4, 8, 12-15 are rejected under 35 U.S.C. 103(a) as

being unpatentable over Tingley et al (U.S. 6,708,211) and

further in view of Evoy (U.S. 6,591,377).

As per claims 1, 14-15 Tingley et al discloses a method of detecting states that are activated by a computer unit comprising: checking a set of values in a memory area of the computer unit or in a proprietary file stored within the computer unit, with each set of values correspond to a state activated by the computer unit, and capturing each set of values to determine each state activated by the computer unit (see column 1 line 62 through column 2 line 1).

Tingley et al fails to disclose the checking includes calculating a maximum base count for entries in a defined registry segment for determining unauthorized behavior.

However, Evoy teaches calculating a maximum base count for entries in a defined registry segment for determining unauthorized behavior (see column 3 lines 1-15).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Evoy's method of determining unauthorized behavior in the method of Tingley et al.

Motivation to do so would have been to allow a user to determine if a particular program is running compared to a previous time (see Evoy column 3 lines 4-15).

As per claims 2-3, the modified Tingley et al and Evoy system discloses initiating a parallel registry segment thread

to collect registry data (see Tingley et al column 7 lines 6-14).

As per claims 4, 8, the modified Tingley et al and Evoy system discloses initiation a parallel operating system segment thread and a polling thread (see Tingley et al column 6 lines 40-46).

As per claim 12, the modified Tingley et al and Evoy system discloses detecting for an unauthorized modification (see Evoy column 3 lines 1-15).

As per claim 13, the modified Tingley et al, Fulfillment, IBM, and Brooks et al system discloses transmitting each set of values to a remote computing unit (see Tingley et al column 2 lines 12-20).

6.   Claims 5, 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Tingley et al and Evoy system as applied to claims 4, 8 above, and further in view of Glowny et al (U.S. 5,491,791).

As per claims 5, 10 the modified Tingley et al, Evoy and Brooks et al system fails to disclose analyzing at least one of an operating system directory structure, "root" and all directories and sub-directories, and loading configuration data into memory.

However, Glowny et al teaches these tasks (see column 3 lines 21-30 where it is clear that a virus scanner scans all files and therefore all directories).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Glowny et al's analyzing, scanning and loading in the modified Tingley et al, Evoy and Brooks et al system.

Motivation to do so would have been to allow for scanning to be more readily performed (see Glowny et al column 3 lines 21-30).

7.   Claims 6, 9, 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Tingley et al and Evoy system as applied to claims 1, 8 above, and further in view of Brooks et al (U.S. 6,047,312).

As per claim 6, the modified Tingley et al and Evoy system fails to disclose initiating a parallel third party segment thread.

However, Brooks et al teaches initiating a third party segment thread (see Brooks et al column 8 lines 34-56).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Brooks et al's method of a parallel third party thread in the modified Tingley et al and Evoy system.

Motivation to do so would have been to obtain information
on a third party (see Brooks et al column 8 lines 34-56).

As per claim 9, 11, the modified Tingley et al, Evoy and
Brooks et al system discloses loading configuration data and
third party start up information (see Brooks et al column 8
lines 43-56 where the registry information is the configuration
data and start up information).

8.   Claim 7 is rejected under 35 U.S.C. 103(a) as being
unpatentable over the modified Tingley et al, Evoy and Brooks et
al system as applied to claim 6 above, and further in view of
Glowny et al (U.S. 5,491,791).

As per claim 7 the modified Tingley et al, Evoy and Brooks
et al system fails to disclose analyzing at least one of
scanning all third party start up and initiation files.

However, Glowny et al teaches these tasks (see column 3
lines 21-30 where it is clear that a virus scanner scans all
files and therefore all directories).

At the time of the invention it would have been obvious to
a person of ordinary skill in the art to use Glowny et al's
analyzing, scanning and loading in the modified Tingley et al,
Evoy and Brooks et al system.

Motivation to do so would have been to allow for scanning

to be more readily performed (see Glowny et al column 3 lines

21-30).

Conclusion

9.   The prior art made of record and not relied upon is

considered pertinent to applicant's disclosure. Fulfillment

(webpage) discloses creating a base count.

Any inquiry concerning this communication or earlier

communications from the examiner should be directed to Michael

Pyzocha whose telephone number is (571) 272-3875. The examiner

can normally be reached on 7:00am - 4:30pm first Fridays of the

bi-week off.

If attempts to reach the examiner by telephone are

unsuccessful, the examiner's supervisor, Andrew Caldwell can be

reached on (571) 272-3868. The fax phone number for the

organization where this application or proceeding is assigned is

703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJP

**ANDREW CALDWELL
SUPERVISORY PATENT EXAMINER**